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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
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ORIGINAL

IN THE MATTER OF THE APPLICATION
OF EPCOR WATER ARIZONA INC., AN
ARIZONA CORPORATION, FOR A
DETERMINATION OF THE CURRENT
FAIR VALUE OF ITS UTILITY PLANT
AND PROPERTY AND FOR INCREASES
IN ITS RATES AND CHARGES FOR
UTILITY SERVICE BY ITS MOHAVE
WATER DISTRICT, PARADISE VALLEY
WATER DISTRICT, SUN CITY WATER
DISTRICT, TUBAC WATER DISTRICT,
AND MOHAVE WASTEWATER
DISTRICT.

DOCKET NO. WS-01303A-14-0010

Arizona Corporation Commission

DOCKETED

APR 17 2015

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**NOTICE OF FILING
CLOSING BRIEF
OF**

**JW MARRIOTT CAMELBACK INN,
SANCTUARY CAMELBACK MOUNTAIN RESORT & SPA, AND
THE OMNI SCOTTSDALE RESORT & SPA AT MONTELUCCIA
(THE "RESORTS")**

April 17, 2015

1 **I. INTRODUCTION**

2 The JW Marriott Camelback Inn, Sanctuary Camelback Mountain Resort & Spa and the
3 Omni Scottsdale Resort & Spa at Montelucia (the "Resorts"), through undersigned counsel herby
4 files its Closing Brief. The Resorts recommend the Arizona Corporation Commission (the
5 "Commission") reject the System Improvement Benefits charge ("SIB") requested by EPCOR
6 Water Arizona Inc. ("EPCOR") for the Paradise Valley Water District ("PVWD"). In this case,
7 EPCOR has requested a base rate increase for PVWD of 8.7% in total revenues. (Resorts-1 at
8 13). The proposed SIB is expected to increase total PVWD revenues by another 9.75%. (*Id.*). In
9 addition, EPCOR did not notice Paradise Valley Water District customers about the SIB or its
10 intended impact on rates. (*Id.*). Paradise Valley customers have not been warned that a SIB might
11 affect their rates nor that a SIB could be more than double the base revenue requirement increase.
12 (*Id.*).

13 **II. ARGUMENT**

14 The SIB is an abnormal rate-making mechanism that should only be implemented in
15 extraordinary circumstances. EPCOR proposes to use the SIB to cover normal capital
16 expenditures so its application is fundamentally inappropriate. (Resorts-1 at 2). The SIB is in a
17 class of "automatic adjustment clauses" or "adjustors." (*Id.*). Adjustors are clauses to a rate-
18 making order that allow for future adjustments to tariffs. (*Id.*). Those tariff adjustments are based
19 on some cost fluctuation a utility faces. (*Id.*). Adjustors can be used in a case where a utility
20 faces a significant operating expense that exogenously rises or falls, e.g. in the case of a local gas
21 distribution company whose market costs of gas rise and fall and constitute a large portion of total
22 charges. (Resorts-1 at 2-3). In contrast, the Company's proposed SIB seeks return on and return
23 of day-to-day capital expenditures ("CAPEX"). (Resorts-1 at 3). The CAPEX replacement
24 programs captured by the EWAZ SIB are internal re-investments incurred in the normal course of
25 business. (*Id.*).

26 EPCOR's SIB appears to be based on a SIB mechanism implemented for Arizona Water

1 Company ("AWC") under Decision No. 73938. (*Id.*). Yet in that case AWC was struggling
2 financially and had limited access to capital markets to fund its CAPEX. (*Id.*). AWC argued in
3 that case that the sheer volume of replacement CAPEX in its systems and the resulting strain on it
4 financially was extraordinary. (Resorts-1 at 3-4). AWC's critical financial condition and limited
5 or lack of access to capital funding made the SIB mechanism appropriate for AWC. (Resorts-1 at
6 4).

7 EPCOR does not face these same extraordinary circumstances. (*Id.*). EPCOR represented
8 publicly that it has significant access to debt capital markets. (Resorts-1 at 5). EPCOR also
9 represented that it had strong access to capital prior to 2014. (Resorts-1 at 6). EPCOR also
10 represented that it was financially capable to invest in Arizona-American Water Company
11 operations in the merger proceeding, Docket No. W-01303A-11-0101. (*Id.*). In that case, EPCOR
12 represented that it had the financial strength and desire to fund CAPEX and ensure quality
13 service. (Resorts-1 at 8). EPCOR did not represent that it needed any sort of abnormal SIB
14 mechanism to maintain Arizona-American's systems. (*Id.*). EPCOR's investor presentations
15 represented that it has solid access to capital. (*Id.*). The Commission conditioned approving
16 EPCOR's Arizona-American Water Co. acquisition on maintaining quality service. (Resorts-1 at
17 9). Such maintenance was never pre-conditioned on a SIB mechanism. (*Id.*).

18 The Resorts have also raised additional concerns regarding the implementation of the SIB
19 as follows: (1) If an asset has depreciation expense in the current rate case and it is subsequently
20 replaced through a SIB then ratepayers will be paying twice for the same asset. (Resorts-1 at 10);
21 (2) The SIB implementation does not account for accumulated depreciation. (*Id.*); (3) Any SIB
22 "rate base" should properly account for ADIT. (*Id.*); (4) Possible double counting of labor
23 expense and overhead already factored into base rates. (Resorts-1 at 11); (5) The SIB, as an
24 automatic adjustment clause, will only give a minimum 30-day notice which will not allow
25 ratepayers to budget accordingly. (*Id.*); (6) The SIB will inarguably lower a utility's risk but the
26 Company has not taken that lower risk into account. (Resorts-1 at 11-12); and (7) Notice of the

1 SIB in PVWD was deficient. (Resorts-1 at 12).

2 As with SIB applications in the past, the Residential Utility Consumer Office ("RUCO")
3 opposes the SIB for the following reasons: (1) the SIB inappropriately shifts risk from the
4 Company to the ratepayer without adequate financial compensation to the ratepayer; (2) the SIB
5 is not an adjustor mechanism; (3) the SIB will increase the Company's fair value rate base
6 without any determination of fair value; (4) the Company has not requested interim rates; (5) the
7 SIB is not in the public interest. (RUCO_ at 4). In addition, RUCO has identified additional
8 reasons to oppose the SIB including: (6) EPCOR does not meet the SIB Eligible Plant criteria as
9 identified in its Plan of Administration ("POA"); (7) RUCO takes exception to EPCOR's
10 explanation for its requesting a SIB mechanism; (8) if the Commission approves a SIB
11 mechanism rates will increase an additional 18.8 percent, 21.5 percent, and 17.6 percent,
12 collectively through the next rate case over and above the rates approved in this rate case, in the
13 Sun City, Mohave and Paradise Valley Water Districts respectively; and (9) the Company does
14 not set aside depreciation expense. (RUCO_ at ii.)

15 **III. CONCLUSION**


16 The Commission previously found a SIB appropriate for the financially struggling
17 Arizona Water Company and its extraordinary financial circumstances. A SIB should not be
18 employed when a utility is able to fund its normal day-to-day infrastructure needs through normal
19 means and does not face extraordinary circumstances. EPCOR represented to the Commission
20 that it was happy, willing and able to invest in Arizona-American Water Company infrastructure
21 when it sought approval to purchase Arizona-American. EPCOR is a financially healthy
22 enterprise whose circumstances do not merit a SIB mechanism.

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1 DATED this 17th day of April, 2015.

2 MUNGER CHADWICK, P.L.C.

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5 Robert J. Metli, Attorneys for Sanctuary
6 Camelback Mountain Resort & Spa, JW
7 Marriott Camelback Inn, and Omni
8 Scottsdale Resort & Spa at Montelucia

9 Original and 13 copies filed this
10 17th day of April, 2015, with:

11 Docket Control
12 Arizona Corporation Commission
13 1200 West Washington Street
14 Phoenix, Arizona 85007

15 Copy of the foregoing mailed/e-mailed/
16 hand-delivered this 17th day of April, 2015, to:

17 Lyn Farmer
18 Chief Administrative Law Judge
19 Hearings Division
20 Arizona Corporation Commission
21 1200 West Washington Street
22 Phoenix, Arizona 85007

23 Dwight D. Nodes
24 Assistant Chief Administrative Law Judge
25 Hearings Division
26 Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Janice Alward, Chief Counsel
Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Steven M. Olea, Director
Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

1 Thomas Campbell
Michael Hallam
2 Lewis Roca Rothgerber, LLP
201 E. Washington Street, Suite 1200
3 Phoenix, Arizona 85004
Attorneys for EPCOR Water Arizona
4 Inc.
5 Daniel W. Pozefsky
RUCO
6 1110 West Washington Street, Suite 220
Phoenix, Arizona 85007
7
Ann-Marie Anderson
8 5025 N. Central Avenue, Suite 530
Phoenix, Arizona 85006
9 Attorneys for RUCO
10 Marshall Magruder
P.O. Box 1267
11 Tubac, Arizona 85646-1267
12 Rich Bohman, President
Santa Cruz Valley Citizens' Council
13 P.O. Box 1501
Tubac, Arizona 85646
14
Ray Jones
15 WUAA
916 West Adams, Suite 3
16 Phoenix, Arizona 85007
17
18
19
20
21
22
23
24
25
26

Delman E. Eastes
2042 E. Sandtrap Lane
Fort Mohave, Arizona 86426

William F. Bennett, Legal Counsel
Paradise Valley Country Club
7101 N. Tatum Boulevard
Paradise Valley, Arizona 85253

Andrew M. Miller
Town Attorney
6401 E. Lincoln Drive
Paradise Valley, Arizona 85253
Attorney for Town of Paradise Valley

Albert E. Gervenack
14751 West Buttonwood Drive
Sun City West, Arizona 85375

Jim Stark
Sun City Home Owners Association
10401 West Coggins Drive
Sun City, Arizona 85351

Coash & Coash
1802 North 7th Street
Phoenix, Arizona 85006